

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

KIRK STUTES,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-08-207-M
)	
HARVEY BURKHART, <i>et al</i> ,)	
)	
Defendants.)	

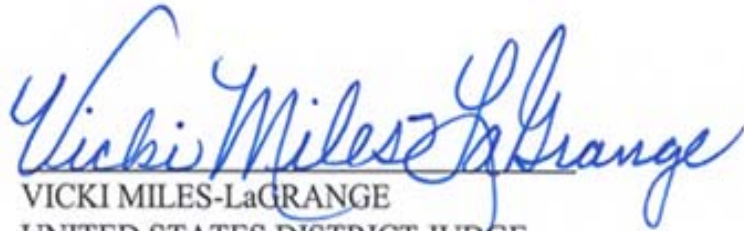
ORDER

On July 18, 2008, United States Magistrate Judge Bana Roberts issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983, seeking monetary damages and declaratory and injunctive relief for alleged constitutional violations committed by defendants. The Magistrate Judge recommends that the motion to dismiss filed by defendants be granted as to defendant Corrections Corporation of America and denied in all other respects. The Magistrate Judge further recommends that pursuant to screening under 28 U.S.C. § 1915(e)(2)(B)(ii), plaintiff's individual liability claims against defendants John Ferguson, James Turner and Fred Figueroa be dismissed for failure to state a claim and that plaintiff's claims for injunctive and declaratory relief be denied as moot. The Magistrate Judge also recommends that plaintiff's state law claims relying on Vermont state law be dismissed. Furthermore, it is recommended that plaintiff's "Motion to Serve Complaint" be granted to the extent he is given an extension of time in which to serve defendants Dane Grainger and David Nellis. Additionally, it is recommended that plaintiff's "Motion for Partial Default" be denied. The parties were advised of their right to object to either Report and Recommendation by August 7, 2008. A review of the file reveals no objection has been filed.

Upon de novo review, the Court:

- (1) ADOPTS the Report and Recommendation issued by the Magistrate Judge on July 18, 2008;
- (2) DISMISSES pursuant to screening under 28 U.S.C. § 1915(e)(2)(B)(ii), plaintiff's individual liability claims against defendants John Ferguson, James Turner and Fred Figueroa for failure to state a claim;
- (3) DENIES plaintiff's claims for injunctive and declaratory relief as moot;
- (4) DISMISSES plaintiff's state law claims relying on Vermont state law;
- (5) GRANTS plaintiff's "Motion to Serve Complaint" to the extent he is given an extension of time in which to serve defendants Dane Grainger and David Nellis; and
- (6) DENIES plaintiff's "Motion for Partial Default".

IT IS SO ORDERED this 19th day of August, 2008.



VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE